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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	:	
Isabelle AFRIAT	:	EXAMINER: BERMAN
SERIAL NO.: 09/884,949	:	
FILED: JUNE 21, 2001	:	GROUP ART UNIT: 1619

FOR: COMPOSITION IN THE FORM OF A WATER-IN-OIL EMULSION WITH A VARIABLE SHEAR RATE AND METHODS OF USING THE SAME

DECLARATION UNDER 37 C.F.R. 1.132

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

I, Véronique Chevalier, hereby declare:

1. I am employed by L=ORÉAL as an engineer and have experience in the field of emulsions, particularly water-in-oil (W/O) emulsions, and their use in cosmetic and/or dermatological compositions.

2. I understand the English language.

3. I have been asked to explain the information set forth in the graphs accompanying the declaration submitted July 24, 2002, in connection with the above-referenced patent application. Attached to this declaration as Tab A is a copy of these graphs.

4. The graphs depict shear rates (vertical axis) as a function of time (horizontal axis) for various applied shear stresses (for example, 50 Pa, 100 Pa, etc.). The graph for the comparative example CM 3/5 (bottom graph) contains flat lines at each of the applied shear stresses. These flat lines indicate that evolution of shear rates does not occur upon application of the shear stresses, meaning that the comparative composition does not readily "break" or become fluid. In contrast, the lines for composition CM 3/2 (representative of the present invention) are not flat, indicating that compositions of the present invention break much more readily than the comparative example.

5. The results in these graphs indicate that the three W/O emulsions containing 80% or more aqueous phase readily Abreak≅ (that is, suddenly become fluid) under shear stresses applied to the emulsions. Thus, these results indicate that W/O emulsions containing 80% or more aqueous phase readily Abreak≅ when applied to skin. When a W/O emulsion Abreaks,≅ more of the aqueous phase becomes available for contact with the skin to which the emulsion is applied, making the W/O emulsion feel less heavy and oily to the skin. Having more aqueous phase available for contact with the skin gives the W/O emulsion a fresher feeling upon application to the skin.

6. In contrast, the results in these graphs indicate that W/O emulsions having 70% or less of the same aqueous phase (that is, emulsion CM 3/5) do not readily Abreak.≅ Thus, W/O emulsions having 70% or less aqueous phase do not have as much aqueous phase available for contact with the skin and, thus, do not have the same feeling of freshness upon application which W/O emulsions having 80% or more aqueous phase have.

7. This difference in Abreak≅ properties and, thus, ability to afford freshness upon application to skin between W/O emulsions containing 80% or more aqueous phase and those containing 70% or less aqueous phase is significant in the cosmetic field where freshness upon application to skin is desirable in products. Moreover, this difference between such emulsions was unexpected and surprising.

8. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believe to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

9. Further deponent sayeth not.

Véronique CHEVALIER
Name

Véronique Chevalier
Signature

7th February 2003
Date